

EXHIBIT 1
Deposition of Brian Kjellin

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

NORTHERN DIVISION

RICHARD J. HILL,

Plaintiff,

v

JUSTIN WONCH, and
TOWNSHIP OF FORSYTH,

Defendants.

Case No. 2:19-cv-159-JTN-MV

U.S. DISTRICT JUDGE:
HON. JANET T. NEFF

U.S. MAGISTRATE JUDGE:
HON. MAARTEN VERMAAT

/

DEPOSITION OF BRIAN KJELLIN

Taken by the Plaintiff on the 4th day of November, 2021, at
99 North Pine Street, Gwinn, Michigan, at 11:00 a.m.

APPEARANCES:

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1 Gwinn, Michigan

2 Thursday, November 4, 2021 - 11:03 a.m.

3 MR. TOUTANT: The record should reflect that this
4 is the deposition of Brian Kjellin, taken pursuant to
5 agreement of counsel and notice. This deposition is to be
6 used for all purposes pursuant to Federal Rule of Civil
7 Procedure 26 and Rule 30. The record should also reflect
8 that this is the deposition of Forsyth Township pursuant to
9 Federal Rule of Civil Procedure 30(b)(6).

10 REPORTER: Do you solemnly swear or affirm that
11 the testimony you're about to give shall be the whole truth?

12 MR. KJELLIN: Yes.

13 BRIAN KJELLIN

14 having been called by the Plaintiff and sworn:

15 EXAMINATION

16 BY MR. TOUTANT:

17 Q Could you please state your name for the record?

18 A **Sure. Brian is my first name. My last is K-j-e-l-l-i-n,**
19 **pronounced Shelleen (pronouncing).**

20 Q I know you've given a deposition before, so I will briefly
21 go through the ground rules that your counsel probably
22 already went through with you. Obviously Pam is here taking
23 everything that we discuss down word-for-word. So be sure
24 to provide a verbal response to every question, just as
25 though you were testifying in court. Nods and "uh-huh's"

1 and "unh-unh's" are generally discouraged because it can
2 create ambiguity in the transcript. If you do inadvertently
3 nod or "uh-huh" or "unh-unh," I may prompt you with a "yes"
4 or a "no." I'm not doing that to be snippy with you or
5 anything, but rather just to make sure that we have a clear
6 transcript. One thing that commonly occurs in everyday
7 communication is that if someone's asking you a question,
8 oftentimes the person being asked will jump in when they
9 realize kind of what they're being asked right away.

10 And that is the result of people trying to
11 communicate efficiently with one another. In this
12 circumstance, though, I'd encourage you to avoid doing that
13 because, for one, it creates a transcript where my question
14 is clipped off by the beginning of your response, and your
15 response is clipped off by the end of my question, and it
16 just is hard to read. And for two, allowing the question to
17 be completed makes sure you know what you're answering. And
18 there could be --

19 **A Sure.**

20 **Q --** something at the end that could, you know, change what
21 you would say. And for three, it also allows your counsel
22 to place an objection if he feels it necessary. I don't
23 know how long we'll be today, but if at any point you want
24 to take a break, that's totally fine. The only exception to
25 that rule is if there is a pending question, you have to

1 answer the pending question before going off the record to
2 take a break. If I ask a question that doesn't make sense
3 to you, by all means ask me to clarify. I'll do my best to
4 do so, but on the same -- different side of the same coin, I
5 guess, if I ask you a question, you don't understand it,
6 don't ask for clarification and answer it anyway, I'm going
7 to presume that you understood the question and answered it
8 knowingly; is that fair?

9 **A Fair; yes.**

10 **(Off the record interruption)**

11 Q So you gave a deposition in March of 2017; correct?

12 A **I wouldn't know the exact date. I know the case, but I**
13 **don't know the date and time to be exact.**

14 Q And that was the case involving the gas explosion out on
15 KI Sawyer?

16 A **Correct.**

17 Q And then you gave another deposition in 2012. Do you
18 remember that?

19 A **No. Well, if you maybe refresh my memory.**

20 Q Approximately 2012. So I don't precisely know. When you
21 were asked about it previously, you said, "I gave a
22 deposition approximately five years ago" -- this was in
23 2017, so I'm presuming around 2012 -- "in a case that didn't
24 go anywhere." And that's all I know. Do you remember what
25 the case was --

1 **A** I don't remember the specifics of it or what case it even
2 was. I would have been here, I just don't know what case
3 that would have been. I don't know if I was just scheduled
4 for a deposition and never actually went. It could have
5 been that, too. Without knowing what case it was, I
6 would -- I don't know the specifics of it.

7 **Q** Right. Okay. So you would have been here. Was it in your
8 capacity as a police officer?

9 **A** Correct; yeah.

10 **Q** Okay. Do you know what the case pertained to? Was it an
11 excessive force, police brutality case or --

12 **A** No. I believe it was a civil case that -- it was a
13 lawsuit -- some type of lawsuit that I might have been there
14 to report on something and they were just trying to get my
15 portion of it.

16 **Q** Okay. So it could have been, for example, a car crash where
17 you were --

18 **A** Yes. Something of that nature where it was -- it was
19 somebody else suing somebody, and my small portion of it was
20 probably the paragraph police report that I wrote.

21 **Q** Okay.

22 MR. FOSMIRE: Okay. One example of he had not
23 finished his question.

24 THE WITNESS: Oh. Sorry --

25 MR. TOUTANT: Yeah. See, he knew exactly what I

1 was asking.

2 MR. FOSMIRE: Yeah.

3 Q It's really easy to do. And I was actually -- Sean beat me
4 to the punch there, so -- yeah, that's -- just wait until I
5 finish --

6 A **Okay.**

7 Q -- and then jump in and answer, because otherwise we'll end
8 up with a transcript that's kind of discombobulated.

9 A **Sure.**

10 Q So you don't specifically recall, but you think it was some
11 kind of incident where you were involved tangentially;
12 correct?

13 A **Correct.**

14 Q Have you ever been a party to a lawsuit yourself?

15 A **No, not that I'm aware of; no.**

16 Q I'm going to ask you some questions about your background.
17 You certified as a law enforcement officer for approximately
18 20 years through MCOLES?

19 A **Correct.**

20 Q And you started your career at Forsyth Township Police
21 Department; correct?

22 A **No.**

23 Q No? Where did you start?

24 A **Gerrish Township Police Department in Roscommon, Michigan.**

25 Q How long were you there?

1 **A** **One year.**

2 **Q** What was your position there?

3 **A** **Patrol officer.**

4 **Q** Why did you leave?

5 **A** **I wanted to come back to the UP.**

6 **Q** After Gerrish Township in Roscommon, did you then go to
7 Forsyth Township?

8 **A** **Correct.**

9 **Q** And there you spent one year as a patrol officer?

10 **A** **Correct.**

11 **Q** Then three to four years as a corporal?

12 **A** **Yeah, right around there; three, four years.**

13 **Q** One year as a patrol sergeant then after being a corporal?

14 **A** **Correct.**

15 **Q** After that, in approximately 2002, you went to the Marquette
16 Police Department?

17 **A** **Yeah, 2002; correct.**

18 **Q** You were there for about six years; true?

19 **A** **Yes.**

20 **Q** Then you went to Afghanistan; correct?

21 **A** **Yes.**

22 **Q** And that was for a year and four months roughly?

23 **A** **Correct; yeah.**

24 **Q** You were a private military contractor there?

25 **A** **Yes.**

1 Q What did you do as a private military contractor?

2 A I worked with the police there, the Afghan National Police.

3 Q In what kind of role?

4 A Advisor, mentor, field training officer.

5 Q Do you have any special training to do that?

6 A Yeah. I have a lot of internal training, investigative
7 training, past military training.

8 Q But no specific training in training foreign nationals how
9 to work as police officers other than, I guess, your
10 experience in training U.S. police officers?

11 A Yeah. I would say my civilian experience and my years in
12 the Marine Corps working in foreign countries, you know,
13 working with locals, too.

14 Q Be sure to wait until I finish.

15 A Okay.

16 Q I know. It's really easy to --

17 A It's like normal conversation. I apologize.

18 Q Exactly. Yeah; no, it's totally understandable.

19 A I understand the --

20 Q Yeah. I just don't want to be, you know --

21 A Sure.

22 Q Who did you work for there?

23 A A company called DynCorp International.

24 Q Can you spell that?

25 A D-y-n-C-o-r-p. It was through the State Department.

1 Q Then in 2009, 2010 you went back to the Forsyth Township
2 Police Department?

3 A 2009; correct.

4 Q When you returned to the Forsyth Township Police Department,
5 were you reinstated as a patrol sergeant or did you have to
6 work back up the ranks?

7 A I started out right back from scratch again, a patrol
8 officer.

9 Q Then you went from patrol officer to patrol sergeant; true?

10 A Correct.

11 Q And you held that title until at some point you were made a
12 detective sergeant?

13 A Correct.

14 Q When did you become a detective sergeant?

15 A I believe it was 2015, late 2015.

16 Q Did you hold that title until you became interim chief?

17 A Yes.

18 Q When did you become interim chief?

19 A I became interim chief sometime in 2019, like June, July. I
20 don't know specifically what day.

21 Q And when did you become the chief?

22 A February of 2020.

23 Q How was that process, I guess? I take it the chief in --
24 who was serving retired or moved to another position?

25 A The chief that -- was here for a short period of time. I

1 don't know what the circumstances were. He was here just
2 for a very short period of time and then within just a
3 couple months he resigned. I don't know the reasonings, the
4 circumstances behind it or, you know -- that was something
5 between him and the township. I was a -- the detective at
6 the time and spent a lot of time on a task force. I wasn't
7 really around the department much. And I don't know the
8 circumstances behind his leaving.

9 Q What task force were you on?

10 A I was on the Michigan State Police Internet Crimes Against
11 Children task force from 2017 until 2020.

12 Q So who's the chief who preceded you?

13 A Joseph Fitzgerald.

14 Q How long was Fitzgerald the chief?

15 A Maybe four months.

16 Q Is he still in the area?

17 A I have no idea. He was from Gaylord, so I don't know if he
18 moved back to that area or if he's still in the UP. I
19 couldn't answer that.

20 Q Before that was it Chief Warchock?

21 A Correct.

22 Q And he was chief for quite some time; right?

23 A Four years.

24 Q Four years?

25 A Yup.

1 Q I thought it was longer than that.

2 A 2014 to, I believe, like, late 2018.

3 Q I'm going to ask some questions about your education. You
4 have a college degree?

5 A I do.

6 Q From where?

7 A Well, a couple different places. Bay de Noc Community
8 College I have an associate's degree. And I'm finished with
9 my degree -- my bachelor's degree at Kaplan in criminal
10 justice, but I still have to make two more payments to
11 actually get the paper. They're holding it over my head
12 hostage, so -- and then just all my over-the-year internal
13 trainings that I've gone to.

14 Q You did a police academy; right?

15 A Correct. In 1999, 2000, NMU.

16 Q Where did you grow up?

17 A Originally in Munising area, and then my family moved to
18 Escanaba in probably my 8th grade year, so I would have
19 graduated high school from Escanaba.

20 Q So you've known Officer Wonch basically since he joined the
21 department?

22 A In 2009.

23 Q Do you have any outside-of-work involvement with him, social
24 activities, anything like that?

25 A Early on in our career, '09, '10 we were partners. He was

1 my patrol partner, and I spent a lot of time with Justin,
2 with his family, you know, weightlifting, biking. And just
3 over the years it's -- we have a work relationship but not
4 as much as a personal relationship.

5 Q So you guys were partners for about a year or two?

6 A Almost two full years, yeah.

7 Q Okay. You mentioned you were in the Marine Corps?

8 A I was.

9 Q What did you do in the Marines?

10 A My MOS was infantry, but my specialty was security forces
11 with a unit called Fleet Antiterrorism Security Team. And
12 essentially what we did was travel to countries that the
13 embassies needed augmenting security.

14 Q When you say "the embassies needed augmenting security,"
15 does that mean that you went to places where there was a
16 United States embassy that was in need of additional se- --

17 A Correct; yup. Somalia.

18 Q See?

19 MR. FOSMIRE: Wait for the period at the end of
20 the sentence.

21 Q Yeah. No, it's okay.

22 MR. FOSMIRE: Or the question mark at the end of
23 the sentence.

24 Q I just try not to be, like, "stop," you know.

25 A I still have to stop myself.

1 Q Yeah. So I think we were on the same page there. You, as a
2 Marine, were deployed to places where the State Department's
3 embassies needed additional security; correct?

4 A Yes.

5 Q And so, for example, Somalia, you mentioned?

6 A Correct.

7 Q Where else?

8 A Haiti.

9 Q Anywhere else?

10 A Not on deployment, just typical marine rotations in Japan
11 but not to augment security.

12 Q So not a combat role then?

13 A Correct. Just a typical rotation for a Marine unit.

14 Q Were you in the Marines before or after college?

15 A Before. Right out of high school.

16 Q Okay. What year did you graduate high school?

17 A 1992.

18 Q What year did you graduate with an associate's from Bay
19 College?

20 A 1998; '98.

21 Q And then the bachelor's in criminal justice at Kaplan, when
22 did you complete your course work?

23 A I would have completed it in June of this year.

24 Q Well, I guess, when did you start working on that at Kaplan?

25 A Probably in 2017, '18. I just took whatever classes I could

1 take in conjunction with work. It's just a goal that I
2 wanted to achieve and, you know, I'd like to go even farther
3 later, but --

4 Q For now this is it?

5 A Yup. One thing at a time.

6 Q So did you do six years in the Marine Corps?

7 A Four.

8 Q Four?

9 A Uh-huh (affirmative).

10 Q Oh, and then two years at Bay College?

11 A Correct.

12 Q "Yes"?

13 A Yes.

14 Q All right. What did you do to get ready for this deposition
15 today?

16 A I wouldn't necessarily say I was getting ready for this
17 deposition. I mean, I know, you know -- having known what
18 was happening, I, you know -- I pretty -- was pretty
19 comfortable with knowing what was going on within this case.
20 A deposition to me is no different than just, like, being in
21 court, so, I mean, just knowing what's going on with the
22 case. I've watched the video numerous times, refreshed
23 myself on our -- what policies would apply to this incident.
24 Pretty much that's all.

25 Q Did you review any other depositions?

1 **A** **Any other?**

2 **Q** Depositions. For example, the transcript of Officer Wonch's
3 deposition.

4 **A** **Yes, I did.**

5 **Q** You reviewed his deposition. Did you review any other
6 deposition transcripts?

7 **A** **No.**

8 **Q** Did you review any other written material other than the
9 reports and the deposition transcript of Officer Wonch?

10 **A** **When you say "written material," just the police report.**

11 **Q** Okay. Other than the police report, did you review any
12 other written material?

13 **A** **Policy.**

14 **Q** Anything else?

15 **A** **MCOLES Force Continuum.**

16 **Q** Anything else?

17 **A** **No, I believe that's it.**

18 **Q** You have a folio with you today. What documents did you
19 bring with you today?

20 MR. FOSMIRE: Pertaining to this case? I'm not
21 sure if that's -- there might be other stuff that's in
22 there.

23 **Q** Oh. You can answer.

24 **A** **I mean, I always bring a portfolio with me wherever I go.**
25 **It's habit. I've always taken notes. But other things**

1 **would just be pertinent to this deposition --**

2 MR. FOSMIRE: He wants to know what you brought in
3 related to this case.

4 **A Just a few policies, the MCOLES Force Continuum, but -- the**
5 **things that I just mentioned.**

6 Q So you have those in your folio with you here today?

7 **A Correct.**

8 Q Okay. I want to ask you some questions about police
9 policies and, I guess, to some extent their interaction with
10 this particular incident. You agree that an officer
11 striking an arrestee with the heel of his hand is an
12 improper practice in terms of subject control; correct?

13 **A I guess in just a general term like that, yes, but I think**
14 **it would just depend on what the situation was in the**
15 **moment. I mean, every interaction is different. So I don't**
16 **know when an officer is using a level of, you know, force**
17 **against somebody, depending on what that encounter is, I**
18 **mean, that might be the appropriate response in that moment.**
19 **It's so hard to just say it generally.**

20 Q Well, wouldn't you say generally that other, I guess,
21 methodologies in terms of application of force are generally
22 encouraged; for example, knee strikes?

23 **A Knee strikes, I wouldn't go to say that they're encouraged,**
24 **but I would say it's definitely something that's trained**
25 **early on in an officer's career from the start of -- when**

1 they're in academy as a way of gaining compliance;
2 compliance control technique; as a palm strike could very
3 well be, you know, applied to a part of a body as a
4 compliance technique as well. So it just -- it would depend
5 on that situation that the officer was in.

6 Q Well, in this situation you'd agree that using a palm strike
7 would not be appropriate; correct?

8 A In this -- Wonch's case here?

9 Q Yes, in Officer Wonch's case on --

10 A Correct. I --

11 Q -- March 22nd, 2019.

12 A I don't believe using a palm strike would have been the
13 correct response.

14 Q That would have been an excessive force incident; correct?

15 A A palm -- no. I just don't see, watching the video, how he
16 could have -- where a palm strike would have come in versus
17 using a common peroneal knee strike. I believe that that's
18 what he was trying to do, is gain compliance, and he used
19 whatever force was necessary to gain compliance.

20 Q You said a "common peroneal (pronouncing) knee strike"? Is
21 that what you said? Peroneal (pronouncing)?

22 A That's probably the correct pronunciation of it, but I've
23 heard --

24 MR. FOSMIRE: I've heard it both ways.

25 THE WITNESS: Yeah, I've heard it both ways.

1 MR. FOSMIRE: Peroneal (pronouncing) has a little
2 different -- it's ambiguous, so peroneal (pronouncing) is
3 better.

4 Q Well, you'd agree that it's objectively unreasonable to use
5 more force than necessary to complete an arrest; true?

6 A **Correct. I would believe that's probably the textbook**
7 **answer of excessive force.**

8 Q You'd agree that if Officer Wonch applied knee strikes to
9 Jack Hill once he was subdued, that would be an instance of
10 objective force; correct?

11 A **I would --**

12 MR. FOSMIRE: Object to the form of the question.
13 Go ahead. You can go ahead and answer. I placed my
14 objection on the record.

15 A **I would say once -- if compliance was gained, whate- -- and**
16 **that compliance in this situation was to effect a legal**
17 **arrest, once compliance is gained, then anything beyond that**
18 **compliant would be above and beyond what should be used for**
19 **force.**

20 Q Well, not just after an arrest is accomplished. But after a
21 subject is subdued and no longer resisting, then the use of
22 force is improper; correct?

23 A **Not correct, no. You're saying "subdued." I'm saying**
24 **"arrested," which is -- in his terms of arrest management is**
25 **placing somebody in handcuffs. To say subdued, I mean, I**

1 would say that he still didn't have control of Mr. Hill's
2 arm. He wasn't able to place him in a lawful arrest. There
3 was still resistance.

4 Q How do you know there was still resistance? What facts are
5 you using to say that right now?

6 A Only from what I see on the video; my interpretation of what
7 I see on the video.

8 Q I mean, we've both seen the video, and, you know, the -- Mr.
9 Hill's arm is not visible at points in the video. Do you
10 agree?

11 A I do agree.

12 Q You would agree that applying knee strikes after Mr. Hill
13 was in cuffs would be excessive force and improper; correct?

14 A Correct.

15 Q You agree that no officer should use excessive force when
16 making an arrest; correct?

17 A Correct.

18 Q In terms of Forsyth Township Police Department's staffing in
19 March of 2019, how many officers were employed then?

20 A I believe seven, but it could have been eight full-time
21 certified officers.

22 Q Okay. Seven or eight?

23 A Correct.

24 Q Did you have any part-time certified officers at that time?

25 A Yes.

1 Q How many?

2 A One.

3 Q Who was that?

4 A I believe at that time it was Corporal Elmer Rinehart from
5 Marquette County Sheriff's office. I should say retired
6 corporal.

7 Q How long was Rinehart doing that?

8 A Maybe for two, three years.

9 Q What were the department's policies about working with a
10 partner at that time?

11 A It's not so much as -- a policy as it is a union contract
12 agreement. And in that labor agreement it says that, you
13 know, on night shift it's requi- -- you know, we should have
14 two officers, but if one should call in sick and is not
15 available, then the other officer still has to work his
16 shift.

17 Q Is it that you have two officers after dark or two officers
18 on a night shift or how does that work?

19 A We typically recommend that the night -- the two officers
20 that work night shift work together. But if one should call
21 in sick or whatever, the other officer still has to patrol
22 and go about his shift as he normally would, or she.

23 Q Do you recall why Officer Wonch was working alone on March
24 22nd, 2019?

25 A I do not.

1 Q When an officer is working alone on a shift for whatever
2 reason, backup is available; true?

3 A In Marquette County at that time of the day, maybe, maybe
4 not. The sheriff's department has limited patrol powers at
5 night, and then, you know, MSP covers quite a wide berth of
6 an area with limited people. We will get backup, but
7 it's -- to say where it's coming from or when is just
8 unknown down here.

9 Q So backup is available, but the question is you don't know
10 if/when they'd be available at a given date or time; true?

11 A Correct.

12 Q It may take awhile to get there; true?

13 A If they're available.

14 Q If they're available?

15 A Correct.

16 Q Are you aware of any shortages of potential backup on the
17 night of March 22nd, 2019?

18 A I am not.

19 Q And you're aware that Officer Wonch declined an offer of
20 backup from central dispatch; correct?

21 A I am, yes.

22 Q And so we don't really know, because he never asked; right?

23 A Sure; correct.

24 Q You agree that having backup or another officer is a good
25 idea when you're presented with a potentially volatile

1 situation; true?

2 **A Yes.**

3 **Q** And domestic violence calls can certainly be volatile

4 situations; true?

5 **A Correct; yes.**

6 **Q** You agree that a confrontation with a subject, when making

7 an arrest, may mean actually avoiding confrontation until

8 backup is available; true?

9 MR. FOSMIRE: This is in general or as applied to
10 this case that night?

11 MR. TOUTANT: As a general concept.

12 **A Can you ask the question again?**

13 **Q** Sure. Confrontation with a subject when effecting an arrest

14 may mean avoiding confrontation until backup is available?

15 **A In a perfect situation, yes.**

16 **Q** No, not just in a perfect situation. I mean, a situation

17 where you have a confrontation with someone where the

18 situation could go sideways is inherently uncertain; right?

19 **A Correct.**

20 **Q** And so in those uncertain situations, if an officer is not

21 entirely confident about the course of action that should or

22 should not be taken, waiting for backup or radioing for

23 backup before making that arrest could be a good idea;

24 right?

25 **A Generally speaking it's always good to have a backup, but it**

1 doesn't always happen, especially down here. Our officers
2 are -- a lot of times they handle a lot of things as a
3 one-man unit or without backup. It's not perfect, but it
4 happens quite often down here.

5 Q And sometimes that's because backup's not available; right?

6 A And the mileage due to the time, you know. There's some
7 situations that require action or intervention, and we might
8 not have backup for 20 minutes, 25 minutes. A lot of things
9 happen in 20 to 25 minutes in this career.

10 Q You agree that all people in this country, even arrestees,
11 should be free from excessive force by officers of the law;
12 fair?

13 A Absolutely, yes.

14 Q And that all the officers in your department's duty is to
15 uphold the constitution; correct?

16 A Yes.

17 Q You agree that using knee strikes when a subject is not
18 actively resisting would be objectively unreasonable force;
19 correct?

20 MR. FOSMIRE: Objection; asked and answered.

21 MR. TOUTANT: I don't think it was.

22 Q One thing, if Mr. Fosmire objects, unless he instructs you
23 not to answer, he's placing his objection for the record and
24 then the court will decide those objections later.

25 A Okay.

1 Q So unless Mr. Fosmire says, "Do not answer the question" or
2 something to that effect, just go ahead and --

3 A Okay.

4 Q -- and answer. Okay?

5 A Very good.

6 Q So I'll ask it again just so, you know -- so the question is
7 clear in your head. The use of knee strikes when a subject
8 is not actively resisting is objectively unreasonable;
9 correct?

10 A I believe that knee strikes should only be used as a
11 compliance technique to gain a lawful arrest and gain
12 compliance.

13 Q Right. But that doesn't answer my question. My question is
14 if a subject is not actively resisting, then the use of a
15 knee strike would be objectively unreasonable; true?

16 A Correct; yes. I'm sorry. I misunderstood your question.

17 Q That's all right. Similarly, using knee strikes on a
18 subdued subject is objectively unreasonable; correct?

19 A Subdued and still not cooperating or subdued -- just 100
20 percent -- so there -- to me there's a couple different
21 levels there.

22 Q Well, I guess we can break it down into a couple of
23 questions because I see what you're saying. So using knee
24 strikes on a passively resisting subject is objectively
25 unreasonable; true?

1 **A Correct.**

2 **Q Using knee strikes on a subject who is not resisting at all**
3 **is also objectively unreasonable; correct?**

4 **A If they were not resisting at all; correct.**

5 Q Someone who's not resisting at all, any force would be
6 improper; right?

7 A Not necessarily.

8 Q If they're not resisting at all, I mean, any force would be
9 improper other than putting their hands in cuffs and helping
10 them into the car; right?

11 A I think that we look at the framework of it, though. When
12 you say someone who is not resisting at all, you still have
13 the level of somebody who may be clenching a fist, looking
14 like they may be ready to assault you. I think you still
15 have that level, too. So, you know, on the framework of the
16 force continuum you have the plus one rule which says, "I
17 can always go up one and then come back down as needed
18 within the continuum."

19 So there is that lowest level in the continuum
20 which says, you know, somebody might be taking a defensive
21 posture, clenching a fist. They're not necessarily
22 physically or actively resisting, but they are showing that
23 they're -- there's signs that they could be in that
24 potential gap to resist and we can always go one step above
25 in that continuum.

1 Q You agree that the goal of the use of force continuum,
2 though, is to de-escalate situations; right?

3 A I think the goal of the continuum is to gain what compliance
4 is needed, and then you come down that scale, de-escalation
5 as required. If somebody is showing that they're complying,
6 whatever level you're at you can come back down. And you
7 can come back up as necessary, wherever you want to fall
8 into that continuum, as the subject's resistance becomes
9 greater.

10 Q If there is greater resistance?

11 A If there is greater resistance; correct; yes.

12 Q You agree that screaming at a subject that he's a fucking
13 piece of shit is not going to de-escalate the situation;
14 true?

15 A Yes.

16 Q And it's also not in keeping with the standards you have for
17 your officers in this agency; true?

18 A Correct.

19 Q Belittling a subject by calling him a stupid fuck, similar
20 analysis; true?

21 A Rephrase the question.

22 Q Okay. Yeah. That was not a very good one. I'll rephrase.
23 Calling a subject a stupid fuck is not in keeping with the
24 standards of your police agency; true?

25 A True.

1 Q And it is not behavior that is likely to de-escalate a
2 situation; fair?

3 A Correct.

4 Q Have you responded to calls to Ms. Lara and Mr. Hill's
5 apartment before yourself?

6 A I believe I have; correct; yes.

7 Q And you know that Officer Wonch had on multiple occasions?

8 A I mean, I don't know on multiple occasions, but I think that
9 we all pretty -- we knew Mr. Hill and Ms. Lara very well.
10 There had been a lot of dealings with both of them in our
11 agency whether -- which specific officer it was; whether it
12 was Wonch, myself, whoever; I don't know of specifically,
13 but I know our agency handled many calls involving them.

14 Q Do you know of Ms. Lara's whereabouts now?

15 A The only thing that I know is she met a new boyfriend and
16 they moved out of the state.

17 Q Do you have any specific recollections of responding to
18 calls at the apartment of Mr. Hill and Ms. Lara?

19 A Yes.

20 Q What of them?

21 A A lot of narcotic use and alcohol use.

22 Q Was this before the incident on March 22nd, 2019?

23 A Yes.

24 Q That was fairly well-known to folks in the department?

25 A Yes.

1 Q When you say "narcotics," do you mean opiates?

2 A Specifically methamphetamine, prescription pills, alcohol.

3 Q How did you learn of the incident that occurred on March
4 22nd, 2019?

5 A I believe that at some point Officer Wonch had mentioned to
6 me that he had arrested Mr. Hill and that he had gotten
7 injured. And I can't remember how long it was after. It
8 was, like, maybe six days, seven, a week, and that the chief
9 at the time was given, you know -- knew about it and was
10 given the report and the body cam video.

11 Q So the chief was given that material?

12 A Correct.

13 Q So did Wonch -- Officer Wonch tell you about this incident
14 himself or how did you come to learn of it?

15 A I just think it was in passing in the offi- -- you know, one
16 day in the office. I had gone to Ms. Lara's house probably
17 24 to 48 hours after the original incident, do some
18 follow-up in my detective capacity. And I don't think
19 anything was mentioned then, either. Maybe none of us knew
20 at that time; myself, Ms. Lara, the other witness that was
21 present. So it was probably three, four days after that
22 that I learned about Mr. Hill's injury.

23 Q Is that standard practice for a detective to go back out and
24 reinterview subjects on a simple DV call?

25 A It is when there's suspected alcohol, narcotics use when

1 sometimes we don't feel like the -- maybe the interview
2 wasn't 100 percent because of that, you know, adding a level
3 of whatever use they were using. And other than that, it's
4 the injuries, too. We like to go out and take a look at,
5 you know, anything -- injuries sometimes settle 24 or 48
6 hours after the original incident, so we go back and
7 rephotograph. It's common. We still do it today.

8 Q So injuries and suspected intoxication?

9 A Intoxication, impairment, you know, whatever that might be.
10 I think it was noted in the report that there was -- under
11 the influence. And I just felt that, you know -- typically
12 that's what I do; I go back out and reinterview and check
13 for injuries, photograph them, document it. It strengthens
14 DV cases when you can, you know -- maybe an injury -- a
15 fingerprint might be on the neck or something 24 hours later
16 that wasn't there that night.

17 It just so happened when I went out to interview
18 Ms. Lara, Mr. Norman was there, too, present, so I was able
19 to obtain an interview from him as well.

20 Q There was no attempts to reinterview Mr. Hill; correct?

21 A No.

22 Q I'm noticing that Corporal Mills did a strangulation
23 protocol at your request. Why did you have him do that?

24 A I don't know exactly. It could have been that I -- at that
25 time I was still on the task force. I might have had

1 something else going on. In my interview I think she
2 mentioned strangulation, and it's something that we have to
3 follow up on through the -- through our DV protocols in the
4 county. And I think I just asked him on routine, you
5 know -- if he had a chance on patrol, to go follow up on
6 that topic with her.

7 Q Is Corporal Mills still with the department?

8 A He is. He's the detective sergeant.

9 Q So now he's Detective Sergeant Mills?

10 A Correct.

11 Q Okay. Mr. Hill was not charged with assault by
12 strangulation, though; correct?

13 A Honestly I don't know what -- the outcome of the charges. I
14 think it was submitted upon. I don't know what the charges
15 were, to be honest with you.

16 Q So this incident was reviewed by the chief at the time
17 within seven days, you said?

18 A I believe so. I don't know that to be true. I just know
19 that he was provided a copy of the body cam video and the
20 police report. And that was secondhand. I don't know that
21 to be true, what he did or did not do.

22 Q That was Chief Fitzgerald at the time?

23 A Correct.

24 Q Did you ever discuss the incident with Chief Fitzgerald?

25 A No.

1 Q At that time personnel matters, including disciplinary
2 action, was not within your wheelhouse; is that fair?

3 A Not exactly.

4 Q Explain.

5 A Just using this case as an example, if the chief would have
6 approached me and do our -- just our internal investigative
7 process, he would have reached out to me being the detective
8 and maybe had, you know, A, B, C or D for me to follow up
9 on. Maybe interview -- so whoever, body cam review, use of
10 force review, anything like that. And that was never asked
11 of me by the chief. And it was never started, so --

12 Q So in this case there was no internal review other than the
13 chief was given the body cam footage and, to your knowledge,
14 he reviewed it?

15 A To the best of my knowledge he may have reviewed it, but I
16 can't -- I don't know exactly what he did. I just know that
17 he didn't begin the process of an internal review with me,
18 which typically should -- that's what should happen, if that
19 was going to happen. Being the detective, I would have been
20 involved with that on the early onset of it.

21 Q But you do know that he was provided the body cam video;
22 correct?

23 A I do know that, yes.

24 Q To your knowledge was Officer Wonch disciplined at all after
25 this incident?

1 **A** **Not to my knowledge, no.**

2 **Q** **How soon thereafter did he resign from the department?**

3 **A** **This hap- -- so March. I couldn't give you a specific date.**

4 **I don't know exactly.**

5 **Q** **It was fairly shortly after, wasn't it?**

6 **A** **I would only be guessing. It was that same year, I believe,**
7 **but I don't know month or day.**

8 **Q** **So April of 2019 is pretty shortly after March; right? It's**
9 **the next --**

10 **A** **Oh, yeah. If that's the month it was, yes, it's very**
11 **shortly after.**

12 **Q** Yeah. I had a clarification question for you.

13 (Deposition Exhibit 1 marked)

14 **Q** I'm going to hand you what I've marked as Exhibit 1, which
15 are Forsyth Township's Answers to Interrogatories. You've
16 reviewed these before?

17 **A** **I think that I filled it out at one point, but I don't know**
18 **that I went back and reviewed it.**

19 **Q** Okay. But you did -- you signed --

20 **A** **I remember filling it out; correct; yeah.**

21 **Q** Okay. So if you turn to page 2 --

22 **A** **Getting there.**

23 **Q** Okay. Answer to question number 3, "As Officer Wonch began
24 his career at Forsyth Township Police Department 2009 and he
25 left in 2015, Officer Wonch then came back in 2016 as a

1 full-time officer." Why did he leave in 2015; do you
2 remember?

3 **A I do. He took a job with Child Protective Services. It was**
4 **kind of a passion of his and he wanted to explore it.**

5 **Q He was part time for the department at that --**

6 **A Not part time here. He was part time at the airport.**

7 **Q Okay. And that's for the sheriff's department?**

8 **A Back then we had a dual contract, so it was Forsyth and**
9 **Marquette County, since it's in our jurisdiction.**

10 **Q Uh-huh (affirmative).**

11 **A So I think we hired him as a part-time airport guy just to**
12 **check people going in the plane.**

13 **Q Sure.**

14 **A That was the scope of his job.**

15 **Q Okay. If you go up to the answer to question 2, which of**
16 **these trainings did Officer Wonch receive deals with use of**
17 **force and making arrests?**

18 **A It would be the 2017 threat pattern recognition training.**

19 **Q Tell me about that training.**

20 **A I can give you -- if I can refer to my notes, I can give you**
21 **specific, if that's okay.**

22 **Q Yeah.**

23 **A So it's threat pattern recognition training or what they**
24 **call as TPR. It's a,**

25 **"Use of force that examines the patterns**

1 associated with an assault or lethal assault and
2 engineers a tactical solution based on science and
3 motor performance. The TPR system braces the realities
4 of time and engineer a solution that change tactical
5 time lines. This system is an outcome of pressure
6 point control, PPC's, tactical, legal, medical research
7 as well as PPCT survival reactions and time research."

8 Q What other trainings were relevant in that sense; use of
9 force? Any others?

10 MR. FOSMIRE: Are you talking about is on the
11 list?

12 MR. TOUTANT: Correct.

13 MR. FOSMIRE: Okay.

14 A Usually our annual firearms training, which is mandatory by
15 MCOLES, covers a portion of officer safety, subject control.
16 We go over the deadly force policy, which I believe covers
17 the use of force as well. And that's once a year for sure,
18 sometimes twice a year. And then every year it's mandatory
19 that we go through legal update, which covers whatever
20 changes there are and whatever updated laws.

21 We used to all have to go through advanced
22 training at NMU, which was a block training of a week. And
23 they covered subject control, use of force, first aid,
24 felony stops, felony arrests, stuff like that.

25 Q When was that?

1 **A** **It used to go every year. It hasn't been going for probably**
2 **the last three years. But I think the last time he went was**
3 **2014, to the full block training, which it's called --**
4 **referred to commonly.**

5 **Q** What are the training requirements for officers in your
6 department?

7 **A** Well, we try to provide the best training we can. Since I
8 became the chief, it's been a little bit of a challenge with
9 2020 basically shutting down and everything being online.
10 We're just now catching up this year with our mandatories
11 with firearms, legal update, first aid. **What requirement**
12 **training? It's, you know, the 900-hour police academy, 60**
13 **credit hours to an associate's degree. And then the**
14 **mandatory trainings are standardized field sobriety testing,**
15 **the DataMaster and legal update are the absolute**
16 **mandatories.**

17 **Q** So I want to break that down a little bit. So the required
18 is the academy? That's the 9- --

19 **A** **Correct.**

20 **Q** -- 900-hour, you said?

21 **A** **Starting from the beginning, it's the academy at 900 hours.**

22 **Q** Okay. Then what?

23 **A** Then that makes you certifiable. And once you're hired,
24 you're a certified police officer. And then there's the
25 required trainings, which is standardized field sobriety

1 testing, which is roadside impairment. DataMaster and speed
2 radar -- I left that one out. So that's a mandatory. And
3 then our yearly legal update and first aids are mandatories.

4 Q So legal update and field sobrieties, you said?

5 A Standardized field sobriety training, which is SFST as it's
6 commonly referred to.

7 Q Okay; okay. Are those required by Forsyth Township?

8 A Well, I mean, the SFST's, radar and DataMaster are all
9 required by MCOLES to operate. And if you want to operate a
10 radar, you want to do roadside impairment enforcement of OWI
11 grants or anything like that, it's required that you have
12 all of those trainings.

13 Q Who administers them?

14 A NMU mostly does the radar. DataMaster's through an online
15 portal called MITM -- or I'm sorry -- MI-TRAIN, which is the
16 state of Michigan training portal. We can do a lot of
17 online training there.

18 Q Speed radar?

19 A NMU.

20 Q Legal update, is that the prosecutor's office or what?

21 A Through NMU. The prosecutor's office through NMU.

22 Q So these are trainings that MCOLES requires for a department
23 to qualify for certain grants; correct?

24 A Well, in order for an officer to function as a police
25 officer you have to have those kind of trainings. I mean,

1 our -- pretty much a daily routine for a police officer is
2 speed enforcement, OWI enforcement, and they re- -- you
3 know, we require that you have all of those refresher
4 trainings. And it's not just about the grants, being able
5 to go out and do your job.

6 Q So are all of the officers in the department required to
7 receive those trainings we just went through every year?

8 A Legal update, first aid, and they do an FST refresher once
9 every two years. And the radar is now every -- once every
10 four years. The yearly mandatory training through MCOLES is
11 firearms instruction, and that's -- they have a designated
12 course, but you can kind of tweak that course to however you
13 want to train your officers.

14 Q Who does that course at the township?

15 A It used to be me and now it is Officer Wonch. He's a
16 certified firearms instructor.

17 Q And that's the course you said has training on use of force
18 as well?

19 A In the sense of you could -- we do subject control. But
20 when I say "use of force," we usually -- the first part of a
21 firearms training is going over our deadly force policy,
22 which includes the use of force paragraph on there, which is
23 fairly small.

24 Q So there's just one paragraph in the firearms course that
25 deals with the use of force; correct?

1 **A** Correct. Well, and we're talking about deadly force, too,
2 so that's maybe two pages.

3 **Q** And Officer Wonch is the teacher of that?

4 **A** He's the instructor; correct; yeah.

5 **Q** Does the department have a written use of force policy?

6 **A** Yes.

7 **Q** I was not provided that. Can you get me a copy of that?

8 **A** Yes.

9 **Q** Does the department have -- do you have that with you?

10 **A** I do. I've got stuff highlighted, but --

11 (Witness hands document to counsel)

12 MR. TOUTANT: I'm going to mark this as Exhibit 2.

13 MR. FOSMIRE: I prefer that you not do that
14 because it is highlighted.

15 **A** I can get you --

16 MR. FOSMIRE: I'm seeing if I can get a copy sent
17 to you by e-mail, Phil.

18 MR. TOUTANT: Okay. I think that if it were
19 copied, it probably --

20 MR. FOSMIRE: Do you want to give that a try,
21 Brian?

22 THE WITNESS: To get him a fresh one?

23 MR. FOSMIRE: Yeah; yeah. If you can just print
24 out a fresh one, --

25 THE WITNESS: I can just get --

1 MR. FOSMIRE: -- that would be good.

2 THE WITNESS: Yeah, get him a fresh one.

3 MR. FOSMIRE: Let's do that. Let's go off the
4 record for a moment. I need to take a break anyway.

5 MR. TOUTANT: Okay.

6 (Off the record)

7 (Deposition Exhibits 2 through 6 marked)

8 Q All right. So we just went off the record for a little bit,
9 and we did that to get copies of the department's policies
10 on certain issues. And I've now marked Exhibits 2 through
11 5. Exhibit 2 is Use of Force/Lethal Force policy; is that
12 correct?

13 A Yes.

14 Q Exhibit 3 is the -- it says "Forsyth Township Police
15 Department Operating Guideline Manual, Internal
16 investigations." Is this also a policy?

17 A Yes.

18 Q What's the difference between the policy and procedure
19 manual and this operating guideline manual?

20 A I think they're the exact same thing. They're just kind of
21 rewritten by two different chiefs. One of them was started
22 by one chief. The other one came in and started to update
23 and review policy. And so there might just be a little
24 different language, but it's the same thing. It's our
25 policy manual.

1 Q I see. And that manual is available for officers to review?

2 A Yes.

3 Q How, if an officer wanted to review it, would the officer do
4 so?

5 A So starting when I took over, any new hires get trained
6 through the FTO process on all of our policies and
7 procedures. At any point we keep a policy manual within
8 the -- readily available in the department. It's a big
9 binder that says "policies." I'm currently in the process
10 of changing that whole thing using a software company, that
11 they can get it on their phones and -- but that, you know --
12 it's a cost; that it's a project to put together. So it's
13 coming, but it's not here yet. But as of right now, it's a
14 binder that they have access to with all of our policies.

15 Q You said "FTO policies." What does FTO stand for?

16 A It's field training officer. When a new officer comes to
17 our department after the academy, they're required to go
18 roughly about three months standard of phase 1, 2 and 3.
19 That's how it's broke down. And they just have to meet all
20 the checkmarks as far as what they're doing and, you know,
21 are they ready and available to become functional officers
22 within our agency.

23 Q When do you implement that again?

24 A We kind of had a roundabout FTO. But when I became the
25 chief, I sent my sergeant through a formal FTO and another

1 **officer. We've implemented an actual formal FTO process.**

2 Q Exhibit 4 is the department's domestic violence policy?

3 A **Yes.**

4 Q I see this was made effective August 1st of 2014 when Adam
5 LaFave was interim chief. Does that sound right to you?

6 A **Correct.**

7 Q These policies, if they are changed, does it have -- are
8 revision dates stated? I guess there's an effective date?

9 A **Correct.**

10 Q So for example, the Use of Force/Lethal Force policy has
11 Gordon Warchock as police chief, effective August 10, 2016;
12 true?

13 A **Correct.**

14 Q That would mean that this policy has been as -- written as
15 in this exhibit since that date; is that correct?

16 A **Originally it was drafted in 2014, probably revised at some
17 point. I believe where they added was how to dispatch an
18 animal, where that falls then in our policy, and that was
19 added in there. So that revision was done by that chief and
20 then put in as a revision date.**

21 Q I see. Exhibit 5 is marked and that is the department's use
22 of restraining devices; true?

23 A **Correct.**

24 Q Meaning handcuffs?

25 A **Correct; and/or plastic flex cuffs, depending on whatever**

1 **situation is applied.**

2 Q I see. And this has been in place since August 1 of 2014?

3 A **Correct.**

4 Q Again, Officer LaFave was interim chief at that time?

5 A **At that time in 2014 we went through our entire policies and**
6 **basically redid a lot of them and added things. And that**
7 **was the big push in 2014. And some of them have changed,**
8 **but now I'm kind of in that gap now where we're going to be**
9 **changing a bunch more using a different format.**

10 Q And on Exhibit 6, again effective August 1, 2014, this is a
11 guideline on arrest management; true?

12 A **Correct.**

13 Q In this policy there's some writing that's in blue rather
14 than black. Is that just a result of the editing process at
15 some point prior to the policy's implementation in 2014?

16 A **Honestly I think our printer sometimes prints color and**
17 **sometimes doesn't, and that one might have had a different**
18 **font on it or something that it printed color in.**

19 Q I don't think --

20 A **There's nothing specific about.**

21 Q Okay. I don't --

22 A **It might have been in red or something. Our toner is kind**
23 **of goofy on our printer.**

24 Q I don't think that's the case honestly. I do a lot of work
25 with Microsoft Word, and I can see this vertical line here

1 (indicating) is the word processing program. And I'm
2 referencing the first page of Exhibit 6 for the record.
3 That means that an edit has been made, that indication. And
4 then when there's a blue underline like this, that's
5 indicating that there's an addition. And I see that at a
6 couple of points on pages 1 and 2 of Exhibit 6 and elsewhere
7 in the policy. I guess my question for you is is this the
8 state that this policy was in as of August 1, 2014, or has
9 it been revised?

10 **A It has not been revised by me. And if it still has Adam**
11 **LaFave's on there, it was part of the original policy**
12 **creations. What is that? Arrest management?**

13 **Q Yes; correct.**

14 **A So, I mean, I have the same one but with just a different**
15 **color now on this one.**

16 **Q Yeah. But you can see there's still the underlining and**
17 **that vertical line there. This is probably just printed in**
18 **black and white.**

19 MR. FOSMIRE: Can I see? Can you pass that over?

20 **A So I don't exactly know what that line is there for or why.**

21 **Q Okay; okay.**

22 MR. FOSMIRE: We can do some investigation to, you
23 know -- depending on what it shows on the actual electronic
24 document.

25 **Q Okay. Yeah. I mean, no smoking guns or anything. I'm just**

1 kind of wondering why --

2 **A And I don't know the answer.**

3 Q Okay. I understand. And it sounds like counsel will assist
4 you in figuring that out and advise on it, so --

5 **A Great.**

6 Q Let me take a look at this real quick. I apologize. I
7 don't think you were in the room at the time when I was
8 discussing this with Mr. Fosmire, but I haven't received
9 these yet. So I haven't had a chance to review them before,
10 which is why I'm taking a few moments here to look them
11 over.

12 **A No problem.**

13 MR. FOSMIRE: Is that one marked 7?

14 MR. TOUTANT: 6.

15 MR. FOSMIRE: You're still looking at 6? Okay.

16 MR. TOUTANT: There is no 7.

17 MR. FOSMIRE: Okay.

18 MR. TOUTANT: So arrest management is what I'm
19 looking at.

20 Q And it looks like this policy pertains mostly to the legal
21 standard for arrest -- for making an arrest, alternatives to
22 arrest, people who are immune from arrest, and then it goes
23 into custody and transport; correct?

24 **A Correct.**

25 Q You agree that, if you turn to page 11 of Exhibit 6, subpart

1 D, paragraph 2, it states, quote,

2 "When lodging a prisoner upon who force has been
3 used, the transporting officer shall verbally notify
4 the receiving officer of the following and document the
5 notification in their report of the incident. A, what
6 force or implement was used. B, any injuries of which
7 the transporting officer is aware. And, C, any first
8 aid or other treatment measures that have been
9 undertaken"; correct?

10 A Correct.

11 Q And if Officer Wonch did not do that with Jack Hill on March
12 22nd of 2019, that would not be in keeping with the
13 department's guidelines; correct?

14 A Correct.

15 Q You agree that, if you turn to page 14, paragraph F1 -- are
16 you there?

17 A Yup.

18 Q The department's policy states, quote,

19 "If possible, have EMS transport any person that
20 has been determined to be at risk of sudden death,
21 physical/mental emergency or is injured to a medical
22 facility. Officers will assist EMS as necessary during
23 the transport."

24 Did I read that correctly?

25 A Yes.

1 Q And if Officer Wonch did not do that with Jack Hill on the
2 night of March 22nd, 2019, that would not be in keeping with
3 the department's policy; correct?

4 MR. FOSMIRE: Objection to the form and lack of
5 foundation for that question. No evidence that he knew of
6 any injury.

7 Q You can answer.

8 A If, in fact, Officer Wonch knew Mr. Hill to be at risk of
9 sudden death, physical/mental emergency or injured, then
10 yes, he would be in violation of the policy.

11 Q And there was an ambulance at the apartment that night;
12 correct?

13 A Correct.

14 Q And Officer Wonch specifically declined medical assistance;
15 correct?

16 MR. FOSMIRE: Objection to lack of foundation.

17 A I don't know the answer to that, whether he -- how that
18 played out with EMS.

19 Q I believe what he said was, "I'm good."

20 A That he's injured or Mr. Hill's injured?

21 Q They offered to assist him. He said, "I'm good." Do you
22 recall that?

23 A I do, but I don't know what -- in what contents EMS is
24 asking. Is he good? Is Mr. Hill good? It's not very
25 specific.

1 Q Understood. And irrespective of who they were offering
2 assistance to, needless to say, if he felt that he or
3 Mr. Hill or Ms. Lara or Mr. Norman needed assistance, he
4 could have said, "Well, I'm personally good, but this other
5 person may need to be looked at"; true?

6 A **If, in fact, that Officer Wonch was aware and knew of --**
7 **that Mr. Hill was -- met any of this criteria.**

8 Q You agree that Officer Wonch didn't perform any medical
9 assessment whatsoever on Mr. Hill; true?

10 A **True.**

11 Q Is there a substation for the sheriff's office at the former
12 KI Sawyer Air Force Base?

13 A **There used to be. There isn't anymore, and I don't believe**
14 **there was in 2019.**

15 Q Okay.

16 MR. FOSMIRE: You're talking about outside the
17 airport?

18 MR. TOUTANT: Yes.

19 MR. FOSMIRE: Okay.

20 Q Does Forsyth Township have a satellite office there, police
21 department?

22 A **No.**

23 Q Does the state police?

24 A **They have a building that they can use if they need it, but**
25 **it's not manned.**

1 Q Is it like a garage or something?

2 A No, it's just a -- it's a room at the airport. It's an
3 emergency-management-style room. If there's a major
4 incident, they have that available to them, but it's not
5 staffed at any time.

6 Q Are there any other police agencies out there on base?

7 A I wish. There's not.

8 Q Looking at Exhibit 4, the domestic violence policy, last
9 page, last paragraph, it says, "Public policy statement. In
10 accordance with requirements of Michigan Law, a copy of this
11 policy shall be made available to any member in the public."
12 I read that correctly?

13 A Correct.

14 Q Is that the case with all of the department's policies or is
15 that just with regard to the domestic violence policy?

16 A I believe that's changing, but all of them should basically
17 be available to the public through FOIA process or, you
18 know -- there should be no reason for non-transparency for
19 our policies.

20 Q Sure. When you say you believe that's changing, what do you
21 mean by that?

22 A Well, I'm looking -- obviously when you're changing
23 policies, you know, your attorneys are involved, and, you
24 know, there's several that we're changing a few things on
25 and using a different dissemination software. So we're

1 probably going to put -- take some of that out and just put
2 that it's available through FOIA.

3 Q I see.

4 A When these were wrote some of them had it, some of them
5 didn't.

6 Q So some might have it, some might not?

7 A Correct.

8 Q Gotcha. Looking at Exhibit 3, which concerns internal
9 investigations, and it talks -- the policy talks about the
10 receipt of complaints with regard to officer conduct. Was a
11 complaint ever received with regard to Mr. Hill's case on
12 March 22nd, 2019?

13 MR. FOSMIRE: Before the filing of the lawsuit, I
14 assume?

15 MR. TOUTANT: Right; yeah.

16 Q It's not a complaint as in, you know, a legal document, but,
17 I mean, in terms of a complaint to the department.

18 A Not to my knowledge. I wasn't aware of one. And where this
19 policy would become important for me as a detective is when
20 I would have become the designee for the chief to begin the
21 investigative process for the complaint. And a lot of times
22 the complaints are just, you know, citizen complaint of a
23 traffic stop interaction. They're pretty simple. And a lot
24 of this was, you know -- when these were written in 2014,
25 it's pre-body cam.

1 Q In terms of the requirements, I see that the chief is
2 required to maintain a complaint log. Did you review the
3 complaint log to see if there was any complaints made with
4 regard to this incident?

5 A I have never seen a chief's complaint log and I'm not sure
6 what it's referring to. And the way that it's handled now
7 is complaints come in and they're filed, and it's in essence
8 a log, but not in the sense of somebody writing it down. I
9 think it would have been in a file next door at our main
10 office or here. And I was unable to find anything.

11 Q So that would be a central file that's maintained for --

12 A Correct.

13 Q -- complaints? "Yes"?

14 A Yes.

15 Q In a secured area, yes?

16 A Yes.

17 Q And you reviewed that with regard to this incident to see if
18 there was any complaints made?

19 A I did.

20 Q And you did not find anything?

21 A I did not.

22 Q Have you received any -- has the department received any
23 inquiries from outside agencies, other departments, anything
24 of that sort with regard to this incident concerning Jack
25 Hill?

1 **A** No, other than the -- just the attorneys' offices asking for
2 certain things. No other law enforcement agency.

3 **Q** Or government agency?

4 **A** Correct.

5 **Q** Was there any reporting of the incident involving Mr. Hill
6 on March 22nd, 2019, to any other government agencies?

7 **A** Not to my knowledge.

8 **Q** Okay. Not to MCOLES, for example?

9 **A** Correct; no.

10 **Q** And to your knowledge there was no internal investigation
11 conducted?

12 **A** To my knowledge, no. Again, I don't know what Chief
13 Fitzgerald did, but I know he didn't involve me in it.

14 **Q** You know he did not involve you in that?

15 **A** If there was an internal investigation, as the detective I
16 wasn't brought into that.

17 **Q** Who was the shift supervisor on March 22, 2019, around 9:40
18 in the evening?

19 **A** It would had to have been either the patrol sergeant or the
20 patrol corporal who weren't -- who -- they weren't on duty
21 but typically available by phone call, you know, and
22 depending on what situation it is.

23 **Q** So you said patrol supervisor?

24 **A** Correct. We have two levels of patrol supervisor; sergeant
25 and corporal.

1 Q So at that time, March 22nd, 2019, who would the patrol
2 supervisor, whether the patrol sergeant or the patrol
3 corporal, have been?

4 A I don't specifically know who would have been on that day
5 and who the contact was, but at the time I imagine it would
6 have been Patrol Sergeant Jesse Cadwell and Patrol Corporal
7 Mills, Steven Mills.

8 Q You said Patrol Sergeant Cadwell?

9 A Correct.

10 Q Is Patrol Sergeant Cadwell still with the department?

11 A He is, and he is still currently the patrol sergeant.

12 Q Did Officer Wonch complete a use of force report for this
13 incident?

14 A I do not recall if he did or did not.

15 Q Do you keep records of those as a department?

16 A Yes.

17 Q Can you determine that and let your lawyer know? Because
18 I'd like to know whether that was done. I haven't been
19 informed of that, but I'm -- why I'm saying that -- why I'm
20 asking is because I'm reviewing the department's use of
21 force policy, which I've marked as Exhibit 2. And I see on
22 Exhibit 2 -- it's not -- the pages are not numbered, but on
23 page three of the policy, the last full paragraph -- or last
24 section, I should say, paragraph two, it says, quote,
25 "Officers will complete the department use of force report,"

1 end quote. So I take it those are kept in a file somewhere?

2 **A Correct; yup.**

3 **Q Okay. Would you look for that and report back to**

4 **Mr. Fosmire --**

5 **A Yes.**

6 **Q -- about whether or not it exists, and, if it does, provide**
7 **it to him to provide to me?**

8 **A Yes.**

9 MR. FOSMIRE: **Yup, that's fine.**

10 **Q** You agree that it's the department's policy that as a
11 subject begins to de-escalate or lessen the resistance
12 offered, the officer must de-escalate in a similar manner;
13 true?

14 **A Yes. I think that's in keeping with the force continuum as**
15 **well.**

16 **Q** You agree that you don't expect your officers to go around
17 beating up elderly people; correct?

18 **A I would hope not.**

19 **Q** And it's the department's policy to employ the minimum
20 amount of force necessary to effect an arrest and overcome
21 any resistance offered; fair?

22 **A Correct.**

23 **Q** So your Answers to -- your department's Answers to
24 Interrogatories were dated July 2nd, 2021. It looks like
25 you signed them on that date. This is going -- jumping back

1 to Exhibit 1, page 2, paragraph 4, and then the answer is on
2 page 3. The question concerns complaints made about Officer
3 Wonch. And the answer says -- and I'll paraphrase here.
4 I'm not going to quote. Presumably I'm asking about
5 complaints from the outside. You say during your time
6 working with Officer Wonch, and later as a supervisor, you
7 do not believe there are any complaints of misconduct
8 against him. Any such complaint would be documented and put
9 in his personnel file and no such complaints exist. Roughly
10 that's your response; true?

11 **A Correct.**

12 Q Has that changed in any way to today's date?

13 **A As far as him having any complaints in his personnel -- no,**
14 **he has none.**

15 Q Okay. And we're talking about -- when you answer that,
16 you're talking about complaints from the outside, I take it,
17 from the first sentence of your response?

18 **A Public; the public, yes.**

19 Q From the public?

20 **A Correct.**

21 Q Okay. How about complaints internally? Any of those in his
22 personnel file? In other words, complaints from other
23 officers or other peers or subordinates or supervisors.

24 **A None, but I don't want to misstep because there's -- there**
25 **is the one that I answered here later of an internal --**

1 where a door got kicked. He paid for it. I don't know if
2 it was a letter that was put in his file and removed after
3 90 days. I don't know what that was. I wasn't the chief at
4 that time. I just knew about it. So I don't want to
5 misstep and say there was never an internal one because
6 there was, but I don't -- it doesn't exist because I think
7 it was a 90-day type deal where it stayed in his file for 90
8 days and then --

9 Q Yeah. So let's talk about that for a second. When you say
10 90-day, removed from file, what do you mean by that? What's
11 the --

12 A Typically in any disciplinary process, based on what the
13 allegation is and what the nature of the complaint is,
14 there's a step process, which is verbal reprimand, coaching,
15 training; starting at the lowest level, working up. And a
16 lot of times, if it's something at that coaching, training
17 level, it's maybe a letter that goes in the file for 90
18 days, and if nothing further happens after that time period,
19 then it's -- the letter is usually terminated.

20 Q Destroyed?

21 A Correct.

22 Q So in terms of disciplinary records, there's kind of the
23 lower level of discipline where documentation isn't
24 maintained; true?

25 A It could be to that level, and that could just be a da- --

1 that's daily operations of -- as far as supervisors. Now,
2 with me, what I expect from the supervisors is to review
3 body cam footage. If they may see a coaching element there,
4 they can coach their officers, you know. "Hey, this could
5 be better. That could be better." That's not necessarily
6 documented, you know.

7 It's not something that is a complaint per se, but
8 it's something that -- it's a coaching thing that could be,
9 you know, helpful to say, "Hey, you could have did this
10 better or that better," if that makes sense. So that's not
11 necessarily -- that might not be documented.

12 Q Right. But then there are sometimes incidents that kind of
13 go to the next step, as you were saying, where it is
14 documented but it doesn't rise to a level of severity that
15 results in it being kept in the file; is that true?

16 A Well, right. And that's not just at my level. That's, you
17 know, through their arbitration and then union. That might
18 be something that they've negotiated to have this letter in
19 their file for X amount of time because it was a minor
20 infraction of, in this example, where a door was kicked and
21 broke. And, you know, I don't know what the actual
22 discipline was. I just know that, you know, it was a letter
23 and repayment of fixing the door and that was it.

24 Q And that was referenced in here just because you had a
25 recollection of that?

1 **A** Right. And I, you know -- I want to be completely 100
2 percent transparent. I knew of that. And I didn't know if
3 maybe there was somewhere that existed, and I didn't want it
4 to be, "Hey, you didn't talk about this later when it had
5 happened," so I might as well be 100 percent transparent
6 about it.

7 **Q** Sure. In terms of the department, does the department
8 maintain any kind of informal disciplinary records, like
9 desk files, for example? I know the Marquette Police
10 Department, for example, has, you know -- will have desk
11 files, which are informal disciplinary records. Does
12 Forsyth Township have records like that?

13 **A** So pre-me, I don't know the answer to that. As starting
14 with me, I do have that, and I kind of -- you referenced
15 Marquette. Yeah, I kind of use that as a template of, you
16 know -- even a most recent one was a coaching of a different
17 officer and, you know, I maintained that record. But pre my
18 time as the chief, I'm not sure. I don't know what system
19 they were using.

20 **Q** Who, whether presently with or formerly with the department,
21 would be the person who would know about that?

22 **A** I would say that your mo- -- you know, if you go back to the
23 most recent chiefs, with Gordie Warchock and Joe Fitzgerald,
24 they would have probably a better, you know -- I don't know
25 what kind of records they kept and how they kept them or,

1 you know, what their style was or what their procedures
2 were. I just know coming into it that I had to create my
3 own system because I didn't see anything that was in place
4 for that.

5 (Off the record interruption)

6 Q Was anything pertaining to this incident ever communicated
7 to Officer Wonch's union?

8 A Specifically not since I've been the chief. And I don't
9 know what was or wasn't prior to me at the time of the
10 incident.

11 Q Does the department retain records of that kind of
12 communication?

13 A Between the union and -- I would have to say no.

14 Q What is Officer Wonch's union?

15 A Police Officer's Association of Michigan, POAM.

16 Q No branch or anything like that?

17 A No. They have a regional guy up here. He's a former
18 Marquette City Police officer. His name is Emil Kezerle,
19 and he works out of the west end, probably like Ironwood.
20 And he covers a large majority of the agencies here.

21 Q Okay. So I have some questions that are based on the
22 request for depositions pursuant to federal rule of civil
23 procedure 30(b)(6), which is a rule that allows me to seek
24 information from the person most knowledgeable about a given
25 subject within an organization. So some of these questions

1 you may not be the person to talk to, but I'm trying to
2 figure out, if you're not, who I should talk to. And
3 Ms. MacGregor, I think, did discuss this with you at some
4 point. I don't want to know the substance of your
5 discussions, but she did respond to me and gave me some
6 information. So I'm going to ask you some questions based
7 upon the e-mail I got from her about that, which I would
8 surmise is based upon discussing the matters with you.

9 But I'm also going to go through some questions
10 about my 30(b)(6) requests. So I'm just saying that so you
11 kind of have some background of where we're going with this
12 and why I'm asking these questions. Okay?

13 MR. FOSMIRE: Okay. Let's stop for a moment.
14 Let's see if we can take a break.

15 MR. TOUTANT: Sure.

16 MR. FOSMIRE: Just a few minutes?

17 MR. TOUTANT: Sure.

18 (Off the record)

19 Q Okay. So some of these issues -- I think we've talked about
20 use of force reporting and use of force reports by Forsyth
21 Township police officers, including Officer Wonch; right?

22 A **Correct.**

23 Q There's a file that you guys maintain, and you're a person
24 knowledgeable about that file and where it's maintained?

25 A **Up to the point where I've taken over as chief of this**

1 department, I know where my file is and how it's maintained,
2 and if there's any type of citizen complaints, how that
3 process flows and where it goes in his personal file. But
4 pre-me I would not know how that was maintained.

5 MR. FOSMIRE: I'm going to make a mention here.
6 He's asking about who in the department as it currently is,
7 you know; who currently with the department would have --

8 THE WITNESS: Now?

9 MR. FOSMIRE: -- would have knowledge, yes, as
10 opposed to who knew about things back in 2015 or 2012 or
11 things like that.

12 **A Well, as of now, I mean, that would be me.**

13 Q Okay. And back in 2019, that would not have been you;
14 correct?

15 **A Correct.**

16 Q Who would that have been in 2019?

17 **A During this specific incident?**

18 Q Yeah, March of 2019.

19 **A Joseph Fitzgerald.**

20 Q Okay. Do you know where Joseph Fitzgerald is now? I
21 think -- wait -- no -- strike that.

22 MR. FOSMIRE: We did talk about that.

23 Q We did talk about that. I don't want to --

24 MR. FOSMIRE: He may be in Gaylord.

25 Q May be in Gaylord but you're not really sure?

1 **A** **Not 100 percent sure.**

2 **Q** Okay. In terms of the use of force reports prepared and
3 submitted by Forsyth Township Police Department officers,
4 does the department maintain any legacy records from before
5 you took over as chief?

6 **A** **The legacy records would generally be in the personnel file.**
7 **If it made it that far, it would go to the personnel file,**
8 **which, during this whole -- when this all started, we**
9 **accessed his personnel file, which there's only two people**
10 **that have access to that and I'm not one of them. I have**
11 **the ability to review it and make copies of it, but I don't**
12 **have direct access to his personnel file.**

13 **Q** Who does?

14 **A** **One of our township trustees and her name is Michelle**
15 **Borret.**

16 **Q** Borat (pronouncing)?

17 **A** **B-o-r-r-e-t.**

18 **Q** She's a township trustee, you said?

19 **A** **Correct. And in order for me to look at that file, I would**
20 **have to put a request in through her. And I can't go**
21 **anywhere with the file. It has to be with her present. And**
22 **I can make certain photocopies of some things but not other**
23 **things.**

24 **Q** And who's the other person who has access to the personnel
25 files?

1 **A** I'm not 100 percent sure. I just go through Michelle.

2 **Q** So there is another person, but you don't know who?

3 **A** I don't know who that is.

4 **Q** Okay.

5 **A** Or if there is. I believe there's two people, because that
6 could be the township supervisor as well. He might have
7 that ability, but I just don't know the answer to that if he
8 does or not. That's Joseph Boogren.

9 **Q** Now, we were talking a little bit about personnel files.
10 And what I was asking about is legacy use of force reports.
11 And I just want to make sure because in your response you
12 mentioned references to complaints coming from outside; in
13 other words, complaints from citizens, I think, may have
14 been what you were thinking about.

15 And I'm talking about use of force reports. If
16 you recall from our discussion of Exhibit 2, the
17 department's use of force policy, when an officer uses force
18 in the course of his duties, the officer is supposed to fill
19 out a report. That's actually what I was asking about. Is
20 that what you were -- with your response, is that what you
21 were referencing?

22 **A** So we actually do have a use of force form. That's been
23 modified a little bit. I've tweaked it because I think
24 there -- you -- like, again, you have some new technology
25 that needs to be applied to that. So with our use of force

1 policy now, when an officer fills that out -- which is --
2 since I've been chief there's been one that I know of --
3 that gets dis- -- that gets given to a supervisor who
4 instantly is -- reviews body cam footage and he sees whether
5 it's in compliance, with not compliance, and he then brings
6 it to my attention to say, "Hey, listen. Here's the use of
7 force. I watched the body cam. I signed off on it. I
8 don't see anything."

9 And then either a letter is sent to the
10 complainant saying, you know, it's been basically reviewed
11 and there's no -- there -- we haven't found any action, or
12 we -- it goes to the next step.

13 Q You say "complainant."

14 A If it's a citizen complaint, for example.

15 Q If. But same policy even if an officer self-reports use of
16 force?

17 A Correct.

18 Q Which they're supposed to do every time; right?

19 A Correct.

20 Q And there's only been one since you were chief?

21 A Correct; since I've been chief.

22 Q Did that involve Officer Wonch?

23 A It did not.

24 Q There's only been one incident where use of force has been
25 needed since you took over in --

1 **A** It was generated by another agency of a potential officer
2 using too much force. The body camera's reviewed, and the
3 officer was given corrective coaching, and that -- it's been
4 in the file and saved.

5 **Q** Well, maybe I'm misunderstanding the department's policy
6 here because what you're saying is there was a report made
7 by another police agency of use of force. What I thought
8 this policy indicated was that if there was ever the need
9 for an officer to use force, the officer needed to submit a
10 use of force report form; is that correct?

11 **A** Correct.

12 **Q** And the only one you've received since you became chief was
13 when a use of force was reported by an outside agency?

14 **A** A use of force. We also have a taser -- separate --
15 complete separate kind of form, it's called a taser report,
16 and I have had probably two or three of those.

17 **Q** Okay. So if there's a use of force that involves a taser
18 you have a separate form?

19 **A** It's a separate form; correct.

20 **Q** Okay. I was just thinking to myself, you know, you've
21 been --

22 **A** Right.

23 **Q** -- chief how long?

24 **A** Since '20. Just over a year.

25 **Q** Over a year. And the department's only had one instance of

1 use of force. I mean, that just seemed kind of implausible
2 to me, which is why I'm --

3 **A Correct.**

4 **Q** -- asking about it.

5 **A** We have a separate taser use of force, and I kind of confuse
6 the two of them. So if we have a taser deployment, that's a
7 separate -- it's the same form except it adds the taser
8 portion of it on it, too.

9 **Q** I see. Do you think it's possible that officers are just
10 not reporting instances where force was used?

11 **A** No.

12 **Q** It just comes as a surprise to me to think that, you know,
13 in an instance of a noncompliant arrestee, which I'm sure
14 happens frequently enough, that there's just been no
15 reporting of that.

16 MR. FOSMIRE: Well, that doesn't sound like a
17 question. It sounds like some form of testimony. But --

18 MR. TOUTANT: Well, it's --

19 MR. FOSMIRE: We have pretty law-abiding people in
20 this township.

21 **A** Outside of that, I mean, we went almost 2020 without having
22 any -- we were one week on, one week off on our COVID policy
23 in the jail basically saying, "Hey, we don't want any more
24 people." So we went almost the whole -- my whole first term
25 as a chief without even responding to a whole lot of stuff.

1 **Our call volume went from, like, 3,500 to 1800 in 2020.**

2 Q Oh, yeah. Good point.

3 A **It may happen more now, but I would like to keep it like**
4 **2020 personally.**

5 Q I'm sure the arrestees would, too.

6 A **Well, with PR funds, I think they are.**

7 Q So one of the things that I kind of requested production of
8 a 30(b)(6) witness on was departmental administrative
9 procedures to prevent and correct instances of the use of
10 excessive force by officers employed by the department. At
11 present, who would that person be, if anyone?

12 A **It would be myself right now.**

13 Q So you'd be the person most knowledgeable about that for the
14 department?

15 A **Correct.**

16 Q And in terms of the department's administrative procedures
17 to prevent and correct instances of use of excessive force
18 by officers employed by the department, what is there? What
19 does the department have in place?

20 A **I think you -- we start with policy. We have different**
21 **levels of policy and arrest management, how we're supposed**
22 **to treat all people that we're taking into custody and**
23 **having contact with. We have a review program, that**
24 **basically our supervisors now generally go through the**
25 **majority of body cam footage per shift, and we're making**

1 sure that people are adhering to the policies, they're, you
2 know, maintaining a professional standard. And if there is
3 a problem, we're trying to head it off before it becomes a
4 bigger issue down the line.

5 Q What did the department have in place in that sense in
6 2019 -- in March of 2019?

7 A The policies were in place, but I don't know much about a
8 review process for how a supervisor should handle and a
9 supervisor's ability to handle. I think a lot of times the
10 chiefs have kind of taken on the role of disciplinary, where
11 I feel like I use my supervisors as that first line more
12 than they have in the past. So there wasn't quite as much
13 as a review policy as far as body cam footage or how they
14 handled the lower level use of force reporting and how they
15 reviewed it.

16 Q Do you know how Chief Fitzgerald came to learn that Jack
17 Hill was severely injured when he was arrested?

18 A I do not.

19 Q I think we covered this, but in terms of the department
20 keeping records of complaints made about Officer Wonch in
21 the course of his employment here, I don't think there was
22 any records of that; correct?

23 A There was no records that I could find. And even just
24 personal recollection of Officer Wonch -- I didn't work as
25 his partner. And we're a small department. If something

1 happens, it's not like the third person doesn't know about
2 it. And I've never even really heard of Officer Wonch
3 getting a citizen complaint.

4 Q Does the department have a code of ethics?

5 A I mean, we follow the standard law enforcement code of
6 ethics, and then we have what we call our values and our
7 mission statement.

8 Q What's the standard law enforcement code of ethics that
9 you're referencing?

10 A The law enforcement code of ethics? We first learn about it
11 in the academy where we have to recite it without, you
12 know -- verbatim. And then usually it's hung on a wall
13 somewhere in the police department. And ours is actually
14 incorporated within our policy.

15 Q So this would be like the mission statement that's --

16 A Correct; yup. Mission statement and vision statement.

17 MR. FOSMIRE: For the record, he's looking at the
18 printout of the website for the township police department.

19 MR. TOUTANT: Yes.

20 Q You're the person most knowledgeable for Forsyth Township --
21 the Forsyth Township Police Department as to its policies
22 and procedures concerning use of force and subject control?

23 A Yes.

24 Q In terms of those policies, have those been produced today?

25 A Correct.

1 Q In the deposition?

2 A Yes.

3 Q Okay. And records concerning Officer Wonch's training, I
4 know that, as to the discovery responses attached to the
5 Interrogatory responses, there is a list of training
6 document. Do you know who prepared this?

7 A I did.

8 Q Okay. Is there any other documentation of the training
9 received by Officer Wonch other than this?

10 A I was able to obtain that from MCOLES. Typically any
11 training is attached to our MCOLES number, which is our
12 licensing number, and it's recorded and documented through
13 MCOLES. And that's where I obtained that from. I mean, I
14 wouldn't have been able to recall that from memory.

15 Q I'm going to check very briefly just to see if the MCOLES
16 report concerning Officer Wonch was produced with the
17 department's initial disclosures because I'm not entirely
18 sure that it was. If it wasn't, I'm going to request that
19 that be produced to your counsel. But I just want to make
20 sure I'm not being duplicative here and requesting things
21 you've already put together. So give me one moment.

22 A I'm confused. I don't know which document you're referring
23 to.

24 MR. FOSMIRE: Oh, he's talking about exchanges
25 between attorneys.

1 THE WITNESS: Oh. Okay. I'm sorry.

2 Q Yeah. Initial disclosures required by the court rules.

3 A When you said "MCOLES" and "reporting," I got a little
4 confused.

5 Q Okay.

6 MR. FOSMIRE: Those are the things that the
7 attorneys are required to exchange.

8 MR. TOUTANT: Okay. It was produced.

9 MR. FOSMIRE: Okay.

10 Q Who is Tim Rector?

11 A Tim Rector was the police chief here prior to Chief
12 Warchock, so maybe '07 to '14 as the chief, and then dating
13 back, you know, in the 70's as a patrol officer.

14 Q Where is he now?

15 A He is retired and here in the Gwinn area.

16 Q I received a communication from your counsel, Ms. MacGregor,
17 that Chief Rector has cancer. Do you know if he's in --
18 he's still alive? What's his status?

19 A He is still alive. And he, you know -- he still is battling
20 that but is in better health than he was probably during
21 those communications.

22 Q Yeah. This was in late July of this summer.

23 A Yeah.

24 Q So he's doing better?

25 A He's doing better, yeah.

1 Q Okay. I don't even know if it'll be necessary to talk to
2 him. I'm just trying to ascertain --

3 A And he would be available and probably able, if required.

4 Q Okay. Adam LaFave, where's he now? Is he still here?

5 A No. Adam left in 2015, and I believe he went somewhere --
6 maybe to the state of Wisconsin. I wouldn't be able to tell
7 you which town or where.

8 Q So LaFave was an interim chief for a period?

9 A Correct; yeah.

10 Q When was he interim chief?

11 A It was a time after Tim Rector retired and before Gordie got
12 hired. There was a short open window there, maybe 11
13 months, 10 months.

14 Q And then Chief Fitzgerald, we talked about him a little bit.
15 You don't know where he is?

16 A I know he's not in the UP anymore, but he's from --
17 originally from the Gaylord area. And I don't know if he
18 went back there. He also had a girlfriend that worked for
19 the state. So I'm not 100 percent sure where he landed
20 after he left here.

21 Q Do you have a phone number for him or anything?

22 A I could probably find one, but I don't have one. In all
23 honesty, I -- being on the task force I was rarely -- I
24 probably only talked to the guy four times since he was
25 here.

1 Q Gotcha. Other than the reports generated by Officer Wonch,
2 yourself and Sergeant Mills, are you aware of any other
3 documents generated by this department concerning this
4 incident?

5 A Not this incident, no.

6 Q Had you reviewed records from central dispatch before?

7 A Have I reviewed them? Yes.

8 Q When in the events log communications are noted, are those
9 communications made to the officer who is responding?

10 A It all depends. Sometimes central has a list of their own
11 notes in there, but sometimes they might have exactly
12 verbatim what was relayed to the officer. The CAD reports
13 sometimes are a little confusing in how they're, you know --
14 the times, how they're written. But for the most part,
15 they're, you know -- it's a chronological event of, you
16 know, the incident.

17 Q Generally speaking, if it's in the CAD report, is it being
18 communicated to the officer?

19 A I don't know what all things are communicated on the CAD
20 report versus what's on radio transmission. I don't know
21 exactly what they're communicating.

22 Q Okay. What's your understanding of a CAD report? What is
23 it?

24 A Their computer -- it's essentially a chronological timeline
25 of, you know, their dispatch times, what unit, if there's

1 other units. Maybe if a unit checks out a house they say,
2 "Checked out at the house at this time." It's essentially
3 just a history of that event through dispatch's eyes
4 essentially. Sometimes there will be things on there
5 that -- a person calling 911, for example, are on there, but
6 that might not necessarily be relayed to the officer.

7 Q Have you listened to the -- any radio communications from
8 March 22nd, 2019, concerning this incident?

9 A I have not.

10 Q Do you know if any radio communications from March 22nd,
11 2019, concerning this incident have been maintained?

12 A To my knowledge, no.

13 MR. TOUTANT: Well, that's all the questions I
14 have for you. I'd ask you to, when you have a chance, talk
15 with Mr. Fosmire about getting those additional documents we
16 discussed during the deposition.

17 MR. FOSMIRE: From my notes that would be the use
18 of force report; correct?

19 MR. TOUTANT: I believe so. I'll have to --

20 MR. FOSMIRE: If one was prepared?

21 MR. TOUTANT: -- check the transcript as well.

22 MR. FOSMIRE: That's the only one that I had a
23 note about.

24 MR. TOUTANT: Well, and other use of force reports
25 concerning Officer Wonch, but it sounds like --

1 MR. FOSMIRE: Oh, in other cases?

2 MR. TOUTANT: Yeah.

3 MR. FOSMIRE: Okay. All right.

4 MR. TOUTANT: And I don't think -- I think you
5 said that there, to your knowledge, weren't any; correct?

6 THE WITNESS: That there was some taser ones, and
7 I'll have to look to see if he was involved in it.

8 MR. TOUTANT: Okay. And that includes the legacy
9 stuff, too. So in other words, you know --

10 THE WITNESS: If he reported it on a taser report,
11 then we have it.

12 MR. FOSMIRE: Okay.

13 MR. TOUTANT: All right.

14 EXAMINATION

15 BY MR. FOSMIRE:

16 Q One of the areas that you were asked about was the training
17 that was given in 2017. And you had something in front of
18 you where you gave Mr. Toutant some details of the training.
19 Can you show us what it was that you were looking at?

20 A **Yes. I believe it was exactly what was provided in this**
21 **here (indicating).**

22 Q In the Answers to Interrogatories? Oh. Okay. You were
23 reading from the exhibit where it says "Exhibit Number 2b"?

24 A **It's the very last page of what Mr. Toutant provided to me**
25 **in Exhibit 1. The very last page is essentially what I was**

1 **reading from.**

2 Q Okay. All right. Then that's there. That's part of the
3 record then.

4 MR. FOSMIRE: Thank you. That's all I needed.
5 Thanks.

6 (Deposition concluded at 1:53 p.m.)

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